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17 Attorneys for Defendants
18 TESLA, INC., ELON MUSK, BRAD W. BUSS,
19 ROBYN DENHOLM, IRA EHRENPREIS,
20 ANTONIO J. GRACIAS, JAMES MURDOCH,
21 KIMBAL MUSK, and LINDA JOHNSON RICE

22 **UNITED STATES DISTRICT COURT**
23 **NORTHERN DISTRICT OF CALIFORNIA**
24 **SAN FRANCISCO DIVISION**

25 IN RE TESLA, INC. SECURITIES
26 LITIGATION

Case No. 3:18-cv-04865-EMC

**STIPULATION AND [PROPOSED] ORDER
FOR ISSUANCE OF LETTERS ROGATORY**

27 WHEREAS, by Order dated November 27, 2018, the Court appointed Glen Littleton
28 (“Littleton” or “Plaintiff”) as lead plaintiff in this action (Dkt. No. 152);

WHEREAS, on January 16, 2019, Littleton filed a Consolidated Class Action Complaint
against Elon Musk, Tesla, Inc., Brad W. Buss, Robyn Denholm, Ira Ehrenpreis, Antonio J. Gracias,
James Murdoch, Kimbal Musk, and Linda Johnson Rice (Dkt. No. 184);

WHEREAS, Defendants filed a Motion to Dismiss the Consolidated Class Action
Complaint on November 22, 2019 (Dkt. No. 227);

1 WHEREAS, the Court Denied Defendants’ Motion to Dismiss on April 15, 2020 (Dkt. No.
2 251);

3 WHEREAS, on November 25, 2020, the Court entered an Order granting the parties’
4 stipulation for Class Certification that certified a class of “[a]ll individuals and entities who
5 purchased or sold Tesla stock, options, and other securities from 12:48 p.m. EDT on August 7,
6 2018 to August 17, 2018 and were damaged thereby.” (Dkt. No. 298);

7 WHEREAS, based on its investigation, Plaintiff’s counsel believes that the following
8 brokers located in Canada have relevant information regarding potential Class members’ trades in
9 Defendant Tesla Inc.’s securities at issue in the above-captioned litigation: BMO Nesbitt Burns
10 Inc.; Caldwell Securities Ltd.; CIBC World Markets Inc.; CI Investment Services Inc.; Desjardins
11 Securities Inc., Fidelity Clearing Canada ULC; National Bank Financial Inc.; Questrade, Inc.; RBC
12 Dominion Securities Inc.; Scotia Capital, Inc.; and TD Waterhouse Canada, Inc. (collectively, the
13 “Brokers”);

14 WHEREAS, based on its investigation, Plaintiff’s counsel believes that the Brokers, as
15 Canadian entities, cannot be served third-party subpoenas in the United States;

16 WHEREAS, based on its investigation, Plaintiff’s counsel believes that the Brokers are the
17 centralized entities that have exclusive possession, custody or control of the documents and
18 electronic data sought;

19 WHEREAS, Plaintiff now seeks documents and electronic data from the Brokers for use at
20 trial or in preparing for trial concerning damages suffered by members of the class in this matter;

21 WHEREAS, based on its investigation, Plaintiff’s counsel believes that the documents and
22 electronic data sought are relevant to the question of economic loss as a result of the alleged fraud
23 (*i.e.*, damages), necessary elements of the Class’s claims;

24 WHEREAS, Plaintiff’s counsel believes that the documents/data sought is the type of
25 evidence that is necessary to support the claims that Class members suffered damages as a result of
26 the alleged fraud;

1 WHEREAS, the parties agree that Defendants reserve the right to argue that the evidence
2 sought by Plaintiff from the Brokers is not relevant to the claims and defenses in this action and to
3 make other, appropriate evidentiary objections at the appropriate time;

4 WHEREAS, Plaintiff's counsel believes that the requests for evidence are narrowly tailored
5 and will not impose an undue burden on the Brokers;

6 WHEREAS, Plaintiff requested that Defendants consent to Plaintiff's motion for the
7 issuance of letters rogatory, and Defendants consented;

8 WHEREAS, the Court has previously ordered that if Defendants consent to the issuance of
9 letters rogatory, the parties shall submit a stipulation to the issuance of letters rogatory (*see* Dkt.
10 No. 308);

11 WHEREAS, Plaintiff respectfully requests, and Defendants do not oppose, that this Court
12 issue pursuant to 28 U.S.C. § 1781 and Federal Rules of Civil Procedure 26(b)(1) the accompanying
13 letters rogatory to obtain documentary evidence from the Brokers;

14 WHEREAS, this Court has authority to issue the letters rogatory;

15 WHEREAS, Plaintiff and Defendants agree to the terms and conditions set forth in this
16 stipulation;

17 **NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by counsel for
18 the parties listed below, subject to the approval of the Court, that:

19 1. The accompanying letters rogatory to obtain documentary evidence from the
20 Brokers should be issued by the Court pursuant to 28 U.S.C. § 1781 and Federal Rules of Civil
21 Procedure 26(b)(1) and 45.

1 Dated: September 27, 2021

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28 *Attorneys for Lead Plaintiff Glen Littleton and
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1 Dated: September 27, 2021

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25 *Brad W. Buss, Robyn Denholm, Ira Ehrenpreis,*
26 *Antonio J. Gracias, James Murdoch, Kimbal*
27 *Musk, and Linda Johnson Rice*

28 Pursuant to Civil Local Rule No. 5-1(i)(3), all signatories concur in filing this Stipulation.

23 Dated: September 27, 2021

LEVI & KORSINSKY, LLP

24 By: /s/ Adam M. Apton

25 Adam M. Apton

1 **SO ORDERED.**

2
3
4 Dated: _____

HON. KANDIS A. WESTMORE
United States Magistrate Judge